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10 Attorneys for Plaintiffs

11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA  
14 EASTERN DIVISION

15 ANA M. HANSON, for and on behalf  
16 of Southern California Painting &  
17 Drywall Industries Health & Welfare  
18 Fund, Southern California Painting and  
19 Decorating Labor Management  
20 Cooperation Committee Trust Fund,  
21 and Southern California Painting &  
22 Drywall Industries Apprenticeship  
23 Trust Fund; and DANIEL WILLIAMS,  
24 for and on behalf of International Union  
25 of Painters and Allied Trades Industry  
26 Pension Fund, Finishing Trades  
27 Institute, and Painters and Allied  
28 Trades Labor Management Cooperation  
Initiative ("IUPAT Industry Pension  
Funds"),

Plaintiffs,

v.

D'VEGA BUILDERS, INC.; Javier  
Rodriguez Vega, an individual; and  
DOES 1-10, inclusive,

Defendants.

Case No.: 5:23-cv-2435

COMPLAINT FOR DELINQUENT  
TRUST FUND CONTRIBUTIONS  
TO EMPLOYEE BENEFIT PLANS

[29 U.S.C. §§ 185(a), 1132(a)(3),  
and 1145]

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1 Plaintiffs allege as follows:

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3 **JURISDICTION AND VENUE**  
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5 1. This is an action for delinquent contributions due to employee benefit  
6 plans. Jurisdiction in this Court is based on §§ 502(a)(3), 502(e)(1), and 515 of the  
7 Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§  
8 1132(a)(3), 1132(e)(1), 1145, and on § 301(a) of the Labor Management Relations  
9 Act of 1947 ("LMRA"), 29 U.S.C. § 185(a).

10  
11 2. Venue is proper in this Court pursuant to ERISA § 502(e)(2), 29  
12 U.S.C. § 1132(e)(2), and LMRA § 301(a), 29 U.S.C. § 185(a), in that this is the  
13 district where the plans, other than the IUPAT Industry Pension Fund, are  
14 administered and a defendant may be found.

15  
16 **PARTIES**  
17

18 3. The claims in this action are brought on behalf of the Southern  
19 California Painting & Drywall Industries Health & Welfare Fund, the Southern  
20 California Painting and Decorating Labor Management Cooperation Committee  
21 Trust Fund, the Southern California Painting & Drywall Industries Apprenticeship  
22 Trust Fund, and the IUPAT Industry Pension Fund (collectively "Trust Funds").  
23 The Trust Funds are now, and were at all times material herein, jointly trustee  
24 labor-management multiemployer trust funds created and maintained pursuant to  
25 LMRA § 302(c)(5), 29 U.S.C. § 186(c)(5). The Trust Funds are "employee benefit  
26 plans" as that term is defined in ERISA § 3(3), 29 U.S.C. § 1002(3), and within the  
27 meaning of ERISA § 515, 29 U.S.C. § 1145.

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1           4.     Plaintiff Ana M. Hanson is, and at all times material has been, a  
2 trustee and enforcement administrator of the Southern California Painting &  
3 Drywall Industries Health & Welfare Fund, the Southern California Painting and  
4 Decorating Labor Management Cooperation Committee Trust Fund ("LMCC"),  
5 and the Southern California Painting & Drywall Industries Apprenticeship Trust  
6 Fund. Plaintiff Hanson is a "fiduciary" as that term is defined in ERISA Section  
7 3(21)(A), 29 U.S.C. § 1002(21)(A), and within the meaning of ERISA Section  
8 502(a)(3), 29 U.S.C. § 1132(a)(3), authorized by the foregoing listed trust funds to  
9 bring this action.

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11           5.     Plaintiff Daniel Williams is, and at all times material has been, the  
12 Fund Administrator of the International Painters and Allied Trades Industry  
13 Pension Fund, known as the "IUPAT Industry Pension Fund." Plaintiff Williams is  
14 a "fiduciary" as that term is defined in ERISA Section 3(21)(A), 29 U.S.C. §  
15 1002(21)(A), and within the meaning of ERISA Section 502(a)(3), 29 U.S.C. §  
16 1132(a)(3), authorized by the IUPAT Industry Pension Plan to bring this action.

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18           6.     The Trust Funds were created pursuant to separate agreements and  
19 declarations of trust ("Trust Agreements") executed and maintained pursuant to  
20 various collective bargaining agreements between the Painters and Allied Trades  
21 District Council 36, AFL-CIO ("District Council") and employers in the painting  
22 and drywall industry. The Trust Funds are funded by payments from participating  
23 employers.

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25           7.     Plaintiffs are informed and believe, and on that basis allege, that  
26 Defendant, D’Vega Builders, Inc. (D’Vega) is a California corporation with its  
27 principal place of business in Riverside, California. D’Vega is an "employer"  
28 engaged in "commerce" and in an "industry affecting commerce" as defined in

1 LMRA §§ 2(2) and (7), 29 U.S.C. §§ 152 (2) and (7), and LMRA § 301(a), 29  
2 U.S.C. § 185(a), and in ERISA §§ 3(5) and (12), 29 U.S.C. §§ 1002(5) and (12),  
3 and ERISA § 515, 29 U.S.C. § 1145.

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5 8. Plaintiffs are informed and believe and on that basis allege that  
6 Defendant, Javier Rodriguez Vega, is an individual and was at all material times to  
7 this action the RMO, CEO and President of defendant, D’Vega Builders, Inc.

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9 9. Plaintiffs are ignorant of the true names and capacities of defendants  
10 sued herein as DOES 1 through 10, inclusive, and therefore sue these defendants  
11 by such fictitious names.

12  
13 10. Plaintiffs are informed and believe, and thereon allege, that at all  
14 material times each of the defendants was the agent and/or employee of the  
15 remaining defendants and that each was acting within the course and scope of such  
16 agency and/or employment. To the extent that the conduct and omissions alleged  
17 herein were perpetrated by one or more defendants, the remaining defendants  
18 confirmed and ratified such conduct and omissions.

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20 **FACTUAL ALLEGATIONS**

21  
22 **[THE OBLIGATION TO MAKE BENEFIT CONTRIBUTIONS]**

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24 11. At all relevant times, D’Vega has been a party to and bound by a  
25 collective bargaining agreement ("CBA") with District Council #36. The Trust  
26 Funds have at all times been third party beneficiaries of the CBA.

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1           12. Per the CBA, Employers are required to pay employee benefit plan  
2 contributions to the Trust Funds. The amounts of such contributions are based on  
3 the total number of hours worked by each covered employee or required to be paid  
4 to such employee, and the Employer is required to report on and pay such amounts  
5 monthly.

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7           13. Under the Declaration of Trust for the Pension Fund, Health and  
8 Welfare Fund, Apprenticeship Fund and Labor Management Cooperation  
9 Committee Fund, the Employer is required to pay employee benefit plan  
10 contributions to the Trust Funds. The amounts of such contributions are based on  
11 the total number of hours worked by each covered employee and the Employer is  
12 required to report on and pay such amounts monthly.

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14                           **FIRST CLAIM FOR RELIEF**  
15                           **[FAILURE TO PAY MONIES OWED]**  
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17           14. D’Vega is delinquent to the Trusts for the months of June 2022 –  
18 August 2023 in the amount of \$22,833.12 in contributions; interest in the amount  
19 of \$2,488.46 and liquidated damages in the amount of \$3,345.51.

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21           **WHEREFORE**, plaintiffs seek judgment against D’Vega Builders, Inc. and  
22 Javier Rodriguez Vega as follows:  
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- 24           1. For delinquent contributions due;  
25           2. For interest due;  
26           3. For liquidated damages due;

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1           4.     For reasonable attorneys' fees and costs incurred;

2           5.     For such other and further relief as this Court deems proper.

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5 DATED:     November 30, 2023

ANTHONY R. SEGALL  
MICHELE SHERER ANCHETA  
ROTHNER, SEGALL & GREENSTONE

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8 By:        /s/Michele Sherer Ancheta  
MICHELE SHERER ANCHETA  
Attorneys for Plaintiffs  
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